

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JOHN E. WILLIAMS

V.

SIERRA HERMOSA APARTMENTS,
ET AL.

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§

CIVIL ACTION NO. 4: 14-CV-305-O

FINDINGS, CONCLUSIONS, AND RECOMMENDATION
REGARDING DISMISSING CASE PURSUANT TO
SCREENING PROVISIONS OF 28 U.S.C. § 1915(e)

On May 5, 2014, *pro-se* plaintiff John E. Williams (“Williams”) filed a complaint against Defendants Sierra Hermosa Apartments and Wind River Community Associate, alleging “housing discrimination of a rental of an apartment due to defamation by way of sex offender registry.” Plaintiff’s Complaint at 1. Along with the complaint, Williams also filed a Motion to Proceed In Forma Pauperis, which was granted by the Court on May 6, 2014.

Section 1915 of Title 28 of the United States Code sets forth provisions for claimants proceeding in forma pauperis (“IFP”). Pursuant to 28 U.S.C. § 1915(e)(2), the Court shall, *sua sponte*, dismiss a case proceeding IFP if the court determines that it is frivolous or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B). A complaint is frivolous if it “lacks an arguable basis in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). A complaint fails to state a claim upon which relief can be granted when, assuming that all the allegations in the complaint are true even if doubtful in fact, such allegations fail to raise a right to relief about the speculative level. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotation marks and citations omitted).

The Court notes that on May 27, 2014 Williams filed a very similar complaint against two other apartment complexes, which was docketed as cause number 4:14-CV-377-A. Such

complaint was dismissed by the Honorable John McBryde on August 13, 2014 pursuant to the screening provisions under 28 U.S.C. § 1915(e). After reviewing Williams' complaint, the Court recommends that this case should also be dismissed for the same reasons as set forth in the Court's August 13, 2014 Memorandum Opinion and Order in cause number 4:14-CV-377-A.

RECOMMENDATION

It is recommended by the Court, pursuant to 28 U.S.C. § 1915(e)(2)(B), that this action be **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted.

**NOTICE OF RIGHT TO OBJECT TO PROPOSED
FINDINGS, CONCLUSIONS AND RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions and recommendation within fourteen (14) days after the party has been served with a copy of this document. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(b)(1). Failure to file, by the date stated above, a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual findings and legal conclusions accepted by the United States District Judge. *See Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (en banc).

ORDER

Under 28 U.S.C. § 636, it is hereby **ORDERED** that each party is granted until **September 23, 2014** to serve and file written objections to the United States Magistrate Judge's

proposed findings, conclusions and recommendation. It is further ordered that if objections are filed and the opposing party chooses to file a response, the response shall be filed within seven (7) days of the filing date of the objections.

It is further **ORDERED** that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED September 9, 2014.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE